

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

218761  
FINANCE DOCKET NO. 34797

---

NEW ENGLAND TRANSRAIL, LLC,  
d/b/a WILMINGTON & WOBURN TERMINAL RAILWAY  
PETITION FOR EXEMPTION

---

SUPPLEMENTAL COMMENTS OF  
THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND THE NEW JERSEY MEADOWLANDS COMMISSION

The New Jersey Department of Environmental Protection ("NJDEP") and New Jersey Meadowlands Commission ("NJMC") respectfully submit these brief additional comments to address the practical implications of the recent decision of the United States District Court for the District of New Jersey in *NYS&W v. Jackson*, No. 05-4010 (KSH) (February 21, 2007). The *Jackson* decision previously has been brought to the Board's attention by counsel for NYS&W. See letter from counsel to NYS&W Railway Corporation, dated February 21, 2007.

As the Board is now aware, the *Jackson* decision held that, as applied to the NYS&W facilities, New Jersey's regulations (the "2D Regulations") designed to ensure that rail facilities handling solid waste meet the minimum health and safety requirements applicable to all other solid waste handling facilities in the State are completely preempted by 49 U.S.C. § 10501. NJDEP and NJMC believe that the *Jackson* decision is fundamentally flawed for a number of reasons and inconsistent with the Board's own decisions on the scope of Section 10501, and they have filed an appeal with the United States Court of Appeals for the Third Circuit. They also understand that there are ongoing efforts in Congress to address the scope of Section 10501 as it applies to solid waste facilities. See, e.g., 153 Cong. Rec. S2371-72 (daily ed. February 28, 2007)(statement of Sen.

Lautenberg)(attached as Exhibit A); *Bad Ruling on Trash*, Press of Atlantic City, February 26, 2007 (attached as Exhibit B).

However, until the *Jackson* decision is overturned by the appellate courts or Congress, irresponsible rail carriers and their solid waste processing partners will do exactly what NYS&W did in the *Jackson* case – establish and operate open-air dumps with little or no regard for the health and safety of the public or the environmental damage such facilities will cause.<sup>1</sup> The spread of noncompliant facilities and the degradation of standards at facilities already operating is not just a theoretical possibility. Rail solid waste facilities are already refusing to allow access to their facilities to NJDEP and other state inspectors based on the *Jackson* decision, and some facilities have questioned whether they are still required to submit monthly documentation of the solid waste handled.

The *Jackson* decision emphasizes the importance of the issues being addressed by the Board in this proceeding. So long as the *Jackson* decision remains effective, NJDEP and other agencies of the State of New Jersey (as well as responsible agencies in other states) will be severely limited in their ability to control a plague of so-called rail solid waste facilities exactly like the rogue facilities involved in the *Jackson* case. By the same token, the Board appears to have little or no authority to impose health and safety or environmental controls on facilities constructed by existing

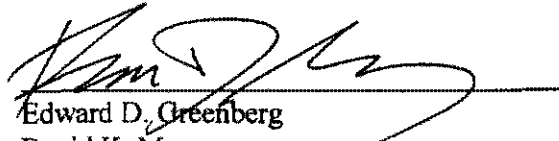
---

<sup>1</sup> NJDEP does not mean to suggest that all rail carriers – or for that matter, all solid waste operators – are irresponsible. Indeed, some rail carriers have worked cooperatively with NJDEP to satisfy the health, safety and environmental concerns addressed by New Jersey's 2D Regulations. Unfortunately, the difficulties that responsible companies face in competing with "fly-by-night" operators and their open-air dumping facilities will inevitably force corners to be cut throughout the solid waste industry. There can be no legitimate dispute that the health and safety of the public will suffer as a result.

rail carriers in view of the limitations of the Board's authority under to 49 U.S.C. § 10906.<sup>2</sup> As a result, the Board's determination whether the term "transportation," as defined in 49 U.S.C. § 10102, includes the kind of processing typically conducted at solid waste transload facilities, and more generally, whether the limited state regulation embodied in New Jersey's 2D Regulations, are permissible is of critical importance.

NJDEP urges the Board to consider the real world consequences of a multitude of NYS&W-style open dumps scattered in communities throughout the nation. The Board should find that solid waste processing is not an integral part of rail transportation and that limited state oversight of solid waste transfer facilities is not inconsistent with the preemption provisions of ICCTA.

Respectfully submitted,



Edward D. Greenberg  
David K. Monroe  
GALLAND KHARASCH GREENBERG  
FELLMAN & SWIRSKY, PC  
1054 Thirty-First Street, NW

---

<sup>2</sup> As the State of New Jersey pointed out in *Ex Parte* No. 659, *Public Participation in Class Exemption Proceedings* (Comments filed May 15, 2006), state regulatory officials rarely receive information from purported "railroad" applicants about their desire to operate solid waste transfer facilities or whether the purported rail activities are a sham intended to take advantage of the preemption provision in 49 U.S.C. § 10501(b). The *Jackson* decision will place a heightened burden on the Board to monitor and remedy environmentally dangerous practices of "railroads" and their "agents" at waste transfer stations, but the Board appears to lose any ability to do so where a rail facility's activities fit within the exemption provisions of Section 10906. It is therefore essential, at least until *Jackson* is reversed or corrective legislation is enacted, that the Board carefully consider whether new entrants will be *bona fide* rail carriers and whether the proposed activities are *bona fide* rail transportation. Moreover, until the Board clarifies the limits of preemption as applied to waste processing activities, where it appears likely that the operation of a new carrier will involve the handling of solid waste, the Board should be prepared to impose appropriate environmental standards and conditions to protect the health and safety of the public, *i.e.*, essentially implement its own version of New Jersey's 2D Regulations.

Washington, DC 20007  
Telephone: 202/342-5200  
Facsimile: 202/342-5219  
Email: [egreenberg@gkglaw.com](mailto:egreenberg@gkglaw.com)  
[dmonroe@gkglaw.com](mailto:dmonroe@gkglaw.com)

DATE: March 6, 2007

CERTIFICATE OF SERVICE

I do hereby certify that I have delivered a true and correct copy of the foregoing document to the following addressees at the addresses stated by depositing same in the United States mail, first class postage prepaid, this 6<sup>th</sup> day of March 2007:

Daniel R. Deutsch  
Deutsch Williams Brooks Derensis  
& Holland, PC  
99 Summer Street  
Boston, MA 02110-1235

Susan P. Ruch  
Massachusetts Department of  
Environmental Protection  
Northeast Regional Office  
205B Lowell Street  
Wilmington, MA 01887

Berry, J. Patrick  
Baker Botts LLP  
1299 Pennsylvania Avenue, NW  
Washington, DC 20004

Patrick John Cane  
Mercer County Improvement Authority  
640 S Broad Street  
Trenton, NJ 08650

James R. Miceli  
Commonwealth of Massachusetts  
11 Webber Street  
State House – Room 167  
Boston, MA 02133-1054

Stephen M. Richmond  
Beveridge & Diamond, PC  
45 William Street, Suite 120  
Wellsley, MA 02481

Mansilia, Arthur G.  
United Tool & Die Co., Inc.  
Eames Street  
Wilmington, MA 01887

M. Barbara Sullivan  
27 Gunderson Road  
Wilmington, MA 01887-1546

Robert A Rio  
Associated Industries Of Massachusetts  
P.O. Box 763  
Boston, MA 02117-0763

Deborah L Duggan  
11 Hillcrest Street  
Wilmington, MA 01887

Thomas E. Dew  
Berry Moorman  
900 Victors Way – Suite 300  
Ann Arbor, MI 48108-2705

John W. Carrington  
Hiram Grand Lodge A.F. & A.M., Inc.  
98 Talbot Avenue  
Dorchester, MA 02124

Tim Conway  
U.S. Environmental Protection Agency  
Region I  
One Congress Street, Suite 1100  
Boston, MA 02114-2023

Nyah Wyche  
Health Education and Learning Program  
for Black Males' Health  
University of Massachusetts, Boston  
100 Morrissey Blvd.  
Boston, MA 02125

Arthur Williams  
National Black Agenda Convention, Inc.  
P.O. Box 366211  
Boston, MA 02136-9998

Frank S. Demasi  
26 Macarthur Road  
Wellesley, MA 02482

P. Christopher Podgurski  
Podgurski Corp.  
8 Springfield Avenue  
Canton, MA 02021

Bill Owens  
115 Hazelton Street  
Mattapan, MA 02121

Fred R. Moore  
6 Ella Street  
Saugus, MA 01906

Siu Tip Lam  
Commonwealth of Massachusetts  
Office of the Attorney General  
Environmental Protection Division  
One Ashburton Place  
Boston, MA 02108-1598

Paul R. Derensis  
Deutsch Williams Brooks Derensis  
& Holland PC  
99 Summer Street  
Boston, MA 02110-1213

Dianne Wilkerson  
Massachusetts State Senate  
State House  
Boston, MA 02133-1053

Linda Raymond  
Woodburn Neighborhood Association, Inc.  
10 North Maple Street  
Woburn, MA 01801

Edward M. Kennedy  
United States Senator  
2400 John F. Kennedy Federal Office Building  
Boston, MA 02203

Edward J. Markey  
U.S. House Of Representatives  
Suite 101, Five High Street  
Medford, MA 02155

John F. Tierney  
U.S. House Of Representatives  
17 Peabody Square  
Peabody, MA 01960

John F. Kerry  
United States Senate  
Washington, DC 20510

Jeffrey M. Bauer  
Baker Botts LLP  
1299 Pennsylvania Avenue, NW  
Washington, DC 20004

Woburn City Council  
City Clerk  
10 Common Street  
Woburn, MA 01801

Wilmington-Woburn Collaborative  
c/o Kathleen M. Barry  
14 Powder House Circle  
Wilmington, MA 01887

Paul J. Meaney  
Woburn Business Association  
P.O. Box 3057  
Woburn, MA 01888

Stephen R. Sasala, II  
Waterbury Regional Chamber  
P.O. Box 1469  
Waterbury, CT 06721

William Clyburn, Jr.  
Clyburn Consulting, LLC  
7819 12th Street, NW  
Washington, DC 20012

Marlinda Duncanson  
Thomas Farrell, Esquire  
City of Middletown  
16 James Street  
Middletown, NY 10940

Bill Phillips  
Morristown & Erie Railway Inc  
P. O. Box 2206  
Morristown, NJ 07962-2206

Woburn Neighborhood Association, Inc.  
10 North Maple Street  
Woburn, MA 01801

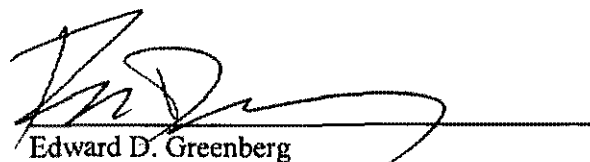
Thomas McLaughlin  
10 Common Street  
Woburn, MA 01801

Robert A. Havern  
Commonwealth Of Massachusetts  
Massachusetts Senate  
4th Middlesex District  
Room 109D, State House  
Boston, MA 02133-1053

Laura Swain  
Department Of Environment Protection  
One Winter Street  
Boston, MA 02108

Ann L. Yurek  
448 Shawsheen Avenue  
Wilmington, MA 01887

Horacio Tablada  
Maryland Dept. of the Environment  
Waste Management Administration  
1800 Washington Boulevard – Suite 605  
Baltimore, MD 21230-1719

  
Edward D. Greenberg

## EXHIBIT A





United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 110<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 153

WASHINGTON, WEDNESDAY, FEBRUARY 28, 2007

No. 34

## House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. PASTOR).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

February 28, 2007.

I hereby appoint the Honorable ED PASTOR to act as Speaker pro tempore on this day.

NANCY PELOSI,

Speaker of the House of Representatives.

### PRAYER

The Reverend Tyrone Skinner, Pastor, Metropolitan Baptist Church, Altadena, California, offered the following prayer:

Dear gracious God our savior, we spend these moments reverencing You as we invoke Your presence in this place so that sound judicious decisions will be made that will benefit our democracy. We admit our shortcomings and our need for Your guidance in all that is done in this place.

We seek Your face to address racism, classism, sexism, and other discriminations that divide us and seek to devour the very core of our democracy. We lift especially the victims of Katrina and other natural disasters in our country that they may find peace and resolution to the quest for placement that should be theirs.

Finally, we pray for our troops who fight for the cause of democracy in Iraq. We know You will not allow their fighting to be in vain. Thank you for hearing our prayer, and we now listen for Your voice to direct our paths.

In the name of Him who has been given all power. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the

last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida (Mr. BILIRAKIS) come forward and lead the House in the Pledge of Allegiance.

Mr. BILIRAKIS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### INTRODUCTION OF REV. TYRONE SKINNER, GUEST CHAPLAIN

(Mr. SCHIFF asked and was given permission to address the House for 1 minute.)

Mr. SCHIFF. Mr. Speaker, I rise today to recognize the Reverend Tyrone Skinner of the Metropolitan Baptist Church in Altadena, California, as guest Chaplain of the House of Representatives.

Pastor Skinner embarked on his career as a preacher at a remarkably young age. He delivered his first public sermon at the age of 10. While at Bishop College in Dallas, Texas, in pursuit of his bachelor's degree, he joined the First Baptist Church of Hamilton Park. He earned his Master's of Divinity Degree from the Perkins School of Theology at Southern Methodist University in 1989. One year later, he became pastor of Metropolitan Baptist Church.

Under Reverend Skinner's charismatic leadership, the Metropolitan Baptist Church has seen incredible transformations. Pastor Skinner has enriched the worship experience for 800 members and has overseen significant infrastructure improvements to the church facility. Pastor Skinner was in-

strumental in engaging church members in a Body and Soul program by serving as a judge at a men's cook-off and encouraging members to become more healthy physically as well as spiritually.

Pastor Skinner helped establish Praise Team, Praise Dancers, Soldiers for Christ Stomp Team, and several other ministries in the church. He also established a 501(c)(3) nonprofit, the Metropolitan Community Action Services Corporation, which has been a sponsor of the Young African American Male Conference.

The list of Reverend Skinner's accomplishments is long, his altruism is broad. Last year, Metropolitan celebrated its 100th anniversary, and today is a fitting capstone to his service to the church, the community and now to the country.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 15 one-minute speeches on each side.

### ADMINISTRATION WANTS TO TALK TO IRAN WHILE PLANNING WAR

Mr. KUCINICH. Mr. Speaker, the administration now says it wants to talk to Iran. At the same time it is making plans to attack Iran. By saying it wants to talk to Iran and Syria, the administration appears to be reversing course after spending 2 months pumping the media full of anonymously sourced articles reporting to link Iran to the Iraq war.

Now it says it wants to talk. Making it appear that it wants to avoid another war. Right. Think about it. Aircraft carriers to the region, mine sweepers to the Persian Gulf, arming neighboring countries with Patriot missiles, ordering an increase in a

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



Printed on recycled paper.

H1979

(A) IN GENERAL.—The Administrator of the Centers for Medicare & Medicaid Services shall solicit proposals submitted by inpatient providers of critical care services who propose to demonstrate methods to optimize the provision of critical care services to Medicare beneficiaries through innovations in such areas as staffing, ICU arrangement, and utilization of technology.

(B) FUNDING OF PROPOSALS.—The Administrator of the Centers for Medicare & Medicaid Services shall fund not more than 5 proposals, not less than 1 of which shall focus on the training of hospital-based physicians in rural or community, or both, hospital facilities in the provision of critical care medicine. Such projects shall emphasize outcome measures based on the Institute of Medicine's following 8 domains of quality care:

- (1) Care should be safe.
- (2) Care should be effective.
- (3) Care should be patient-centered.
- (4) Care should be timely.
- (5) Care should be efficient.
- (6) Care should be equitable.

(2) FAMILY ASSISTANCE PROGRAMS FOR THE CRITICALLY ILL.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall solicit proposals and make an award to support a consortium consisting of 1 or more providers of inpatient critical care services and a medical specialty society involved in the education and training of critical care providers.

(B) MEASUREMENT AND EVALUATION.—A provider that receives support under subparagraph (A) shall measure and evaluate outcomes derived from a "family-centered" approach to the provision of inpatient critical care services that includes direct and sustained communication and contact with beneficiary family members. Involvement of family members in the critical care decision-making process, and responsiveness of critical care providers to family requests. Such project shall evaluate the impact of a family-centered, multiprofessional team approach on, and the correlation between—

- (i) family satisfaction;
- (ii) staff satisfaction;
- (iii) length of patient stay in an intensive care unit; and
- (iv) cost of care.

(C) OUTCOME MEASURES.—A provider that receives support under subparagraph (A) shall emphasize outcome measures based on the Institute of Medicine's following 8 domains of quality care:

- (1) Care should be safe.
- (2) Care should be effective.
- (3) Care should be patient-centered.
- (4) Care should be timely.
- (5) Care should be efficient.
- (6) Care should be equitable.

SEC. 6. USE OF TELEMEDICINE TO ENHANCE CRITICAL CARE SERVICES IN RURAL AREAS.

(a) AMENDMENT TO RURAL UTILITIES SERVICE DISTANCE LEARNING AND TELEMEDICINE PROGRAM.—Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 250aaa et seq.) is amended by adding at the end the following:

"SEC. 2335B. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR TELEMEDICINE CRITICAL CARE INITIATIVES.

"In addition to amounts authorized under section 2335A, there is authorized to be appropriated \$5,000,000 in each of fiscal years 2008 through 2013 to carry out telemedicine initiatives under this chapter whereby 1 or more rural providers of inpatient critical care services propose, through collaboration with other providers, to augment the delivery of critical care services in the rural inpatient setting through the use of tele-

communications systems that allow for consultation with critical care providers not located in the rural facility regarding the care of such patients."

(b) AMENDMENT TO TELEHEALTH NETWORK GRANT PROGRAM.—Section 3301(d)(1)(B) of the Public Health Service Act (42 U.S.C. 254c-14(d)(1)(B)) is amended by striking the period at the end and inserting ", or that augment the delivery of critical care services in rural inpatient settings through consultation with providers located elsewhere."

SEC. 7. INCREASING THE SUPPLY OF CRITICAL CARE PROVIDERS.

Section 338B of the Public Health Service Act (42 U.S.C. 254i-1) is amended by adding at the end the following:

"(1) CRITICAL CARE INITIATIVE.—

"(A) ESTABLISHMENT.—The Secretary shall undertake an initiative that has as its goal the annual recruitment of not less than 50 providers of critical care services into the National Health Service Corps Loan Repayment Program. Providers recruited pursuant to this initiative shall be additional to, and not detract from, existing recruitment activities otherwise authorized by this section.

"(2) CLARIFYING AMENDMENT.—The initiative described in paragraph (1) shall be undertaken pursuant to the authority of this section, and for purposes of the initiative—

"(A) the term 'primary health services' as used in subsection (a) shall be understood to include critical care services; and

"(B) 'an approved graduate training program' as that term is used in subsection (b)(1)(B) shall be limited to pulmonary fellowships or critical care fellowships, or both, for physicians."

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act—

- (1) \$5,000,000 for the research to be conducted under section 4; and
- (2) \$4,000,000 for the demonstration projects authorized under section 5.

By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mr. KENNEDY, and Mr. REED):

S. 719. A bill to amend section 10501 of title 49, United States Code, to exclude solid waste disposal from the jurisdiction of the Surface Transportation Board; to the Committee on Commerce, Science, and Transportation.

Mr. LAUTENBERG. Mr. President, I rise today to re-introduce legislation that will close an egregious loophole in federal law. Currently, this loophole permits solid waste management facilities operated near railroads to go unregulated—free from meeting any minimum level of safety, health, and environmental standards. Basically, this loophole prevents state or local law from regulating the operation of these facilities on property owned or controlled by railroads.

In fact, just last week, a United States District Court judge declared this loophole alive and well. By shutting down the State of New Jersey's efforts to regulate solid waste rail facilities, this ruling allows the continuing proliferation of these unregulated facilities—which are already spreading quickly throughout the Northeast United States.

These unregulated facilities present an imminent threat to public health and the environment. My bill, the

Clean Railroads Act of 2007, will close this loophole once and for all. Almost 2 years ago, I first introduced legislation to address this problem, and I renew that effort today.

This problem could easily be solved by proper interpretation of current federal law. Such an interpretation could be made by the federal Surface Transportation Board (STB), an independent board charged with economic regulation of railroads. However, despite several opportunities, the STB has chosen not to define a clear position on this issue. I have urged the Board members to address this problem, as the loophole in federal law has allowed even more of these unregulated facilities to operate.

Last week's court ruling has highlighted the need to find a solution to this problem immediately, and my bill would do just that.

Let me be clear that my concern is not the transport of solid waste by rail. Railroads provide a vital role in commerce in the United States and the benefits of rail transportation are numerous, as we in New Jersey know. Further, the transportation of waste via rail is not at issue here, and I am not opposed to the operation of solid waste management facilities on property owned or controlled by railroads.

My chief concern is the lawful management of solid waste facilities. If a solid waste management facility is to be operated on rail property, it must be regulated like any other such facility. That is not happening today.

The threats posed by unregulated waste management facilities operating on property owned or controlled by railroads are so great that a broad and diverse coalition of public and private sector entities have been formed to oppose these rogue operations. I thank these coalition members for their continued efforts, and will be looking forward to the day in which their fears over this issue can be permanently assuaged.

Responsible management of solid waste requires safeguards to protect public health and the environment. As Chairman of the Commerce Committee's Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security, which has jurisdiction over railroads and the Surface Transportation Board, I will work to ensure this loophole does not continue to let the hazards of unregulated solid waste rail facilities affect the lives of New Jerseyans and other Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clean Railroads Act of 2007".

# SEC. 2. AMENDMENTS TO EXCLUDE SOLID WASTE FACILITIES FROM THE JURISDICTION OF THE BOARD.

Section 10501 of title 49, United States Code, is amended—

(1) by striking "facilities," in subsection (b)(2) and inserting "facilities (except solid waste management facilities (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)))"; and

(2) by striking "over mass transportation provided by a local governmental authority," in subsection (c)(2) and inserting "over—

"(A) mass transportation provided by a local governmental authority; or

"(B) the processing or sorting of solid waste."

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 88—HONORING THE EXTRAORDINARY ACHIEVEMENTS OF MASSACHUSETTS GOVERNOR DEVAL PATRICK

Mr. KERRY (for himself and Mr. KENNEDY) submitted the following resolution: which was referred to the Committee on the Judiciary:

S. RES. 88

Whereas February is widely recognized as Black History Month;

Whereas Deval Patrick was born in Chicago, Illinois but, after receiving what he has described as a life-changing education at Milton Academy, has made Milton, Massachusetts his home;

Whereas Deval Patrick is the second African American elected Governor in the history of the United States;

Whereas Deval Patrick has been a pioneer his entire life and was the first member of his family to attend college;

Whereas Deval Patrick graduated with honors from Harvard College in 1978;

Whereas Deval Patrick was elected president of the Legal Aid Bureau while attending Harvard Law School and worked to defend poor families in Middlesex County, Massachusetts during law school;

Whereas Deval Patrick spent many successful years at the National Association for the Advancement of Colored People Legal Defense Fund, devoting his efforts to anti-discrimination and voting rights cases;

Whereas Deval Patrick served as a partner at the Boston law firm of Hill and Barlow and took on many pro bono cases, including a landmark lending scam case filed on behalf of the Commonwealth of Massachusetts;

Whereas Deval Patrick was appointed Assistant Attorney General for Civil Rights, the Nation's top civil rights enforcement post, by President Bill Clinton;

Whereas Deval Patrick served with distinction as Assistant Attorney General for Civil Rights, investigating church burnings, prosecuting hate crimes and abortion clinic violence, holding public employers accountable for job discrimination, ensuring access to housing free of discrimination, protecting the right to vote, and enforcing the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and other important civil rights laws;

Whereas Deval Patrick returned to private practice with the Boston law firm Day, Berry, and Howard in 1997;

Whereas Deval Patrick was appointed by a Federal district court in 1997 to serve as the first chairperson of Texaco's Equality and Fairness Task Force, and was charged with rebuilding the company's system of employment practices following the settlement of a

significant race discrimination case against the company;

Whereas, beginning in 1999, Deval Patrick served as president and general counsel of Texaco and subsequently executive vice president and general counsel of Coca-Cola before returning to Massachusetts to run for Governor;

Whereas Deval Patrick shows great promise as the Commonwealth's new Governor; and

Whereas Deval Patrick is aided in his service to Massachusetts by his loving wife Diane and his daughters Sarah and Katherine: Now, therefore, be it

Resolved, That the Senate—

(1) honors the extraordinary achievements of Massachusetts Governor Deval Patrick;

(2) offers its appreciation for Deval Patrick's continuing devotion to the people of Massachusetts; and

(3) congratulates Deval Patrick on his historic election as Governor of Massachusetts and becoming the second African-American Governor in the history of the United States.

Mr. KERRY. Mr. President, I would like to take a moment to honor an extraordinary man, a dedicated public servant, and, now, the Governor of my home State, Massachusetts: Deval Patrick. It is particularly fitting that we honor Deval today—during Black History Month—because not only is Deval an outstanding choice to lead our State, but he is only the second African American to be elected governor in American History.

Think about that: the second African American to be elected governor in any of the 50 States of our great Nation. That is pretty amazing. But what is more amazing is that the people of Massachusetts did not elect him because they wanted to make history, they elected him because they knew he was the best man for the job. They recognized that "Together We Can" was more than just a catchy campaign slogan—it's a philosophy about how to treat people and how to lead them. And it embodies the kind of leadership our State and our Nation are crying out for at this time.

Throughout his entire life, Deval Patrick has been pushing the envelope, striving to achieve what many thought was impossible, overcoming obstacles that might have made others of lesser conviction or determination turn back. After all, this is a man who went from the South Side of Chicago to the Harvard Law Review.

This is a man who was elected President of the Legal Aid Bureau while attending Harvard Law School and who defended poor families in Middlesex County, MA prior to graduation. Let me tell you something, I attended law school, and I worked in the DA's office prior to my graduation. It is no easy task to balance these competing demands, to work with families day in and day out on issues that their lives depend on. It is a truly remarkable achievement.

Yet, Deval's commitment to public service did not end there. In fact, it was just beginning. Deval went on to spend many successful years at the NAACP Legal Defense Fund, devoting his efforts to discrimination and voting

rights cases. Then, after serving as a Partner at the Boston law firm of Hill & Barlow, he was appointed Assistant Attorney General for Civil Rights by President Bill Clinton.

At the Justice Department, Deval served with distinction in this—the Nation's top civil rights post—investigating church burnings, prosecuting hate crimes and abortion clinic violence; holding public employers accountable for job discrimination; ensuring access to housing free of discrimination; protecting the right to vote; and enforcing the Americans with Disabilities Act, and other important civil rights laws.

During his time at Justice, Deval proved that he would fight for justice, that he would fight for individual rights, and that he was not afraid to hold people accountable, even if others found it politically difficult or distasteful.

These are just a few of Deval Patrick's tremendous career accomplishments that lead him to this point in time as my state's newest Governor.

For generations, too many young Americans have grown up with a gnawing sense of doubt: that maybe the best that America has to offer doesn't really apply to them. That's why I am so happy that a generation of children will see men like Deval Patrick in great positions of leadership. And it is my great hope that positive examples like his will lead a new generation of people of color to push this country to ever greater heights.

### SENATE RESOLUTION 89—AUTHORIZING EXPENDITURES BY COMMITTEES OF THE SENATE FOR THE PERIODS MARCH 1, 2007, THROUGH SEPTEMBER 30, 2007, AND OCTOBER 1, 2007, THROUGH SEPTEMBER 30, 2008, AND OCTOBER 1, 2008, THROUGH FEBRUARY 28, 2009

Mrs. FEINSTEIN submitted the following resolution; from the Committee on Rules and Administration; which was placed on the calendar:

S. RES. 89

Resolved,

#### SECTION 1. AGGREGATE AUTHORIZATION.

(a) IN GENERAL.—For purposes of carrying out the powers, duties, and functions under the Standing Rules of the Senate, and under the appropriate authorizing resolutions of the Senate there is authorized for the period March 1, 2007, through September 30, 2007, in the aggregate of \$55,446,216, for the period October 1, 2007, through September 30, 2008, in the aggregate of \$97,164,714, and for the period October 1, 2008, through February 28, 2009, in the aggregate of \$41,263,116, in accordance with the provisions of this resolution, for standing committees of the Senate, the Special Committee on Aging, the Select Committee on Intelligence, and the Committee on Indian Affairs.

(b) AGENCY CONTRIBUTIONS.—There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committees for the period March 1, 2007, through September 30, 2007, for the period October 1, 2007,

## EXHIBIT B



HELP DELETE ONLINE PREDATORS.  
CLICK HERE FOR A FULL LIST OF ACRONYMS.



pressofAtlanticCity.com  
Life, one page at a time

CLASSIFIED CONNECTIONS

WELCOME GUEST

• Register or Login  
• Subscriber Services  
• Contact Us

Podcasts | RSS | Videos | Photos  
Newsletters

TODAY'S WEATHER

Overcast

Now 50° High 50° Low 50°

WEATHER DETAILS

Sponsored by: AT&T

HOME

Opinion your ad

Obituaries

Special Sections

Legal Notices

Special Sections

Newspaper Ads

NEWS

Today's News

Daily Headlines

Atlantic City

Atlantic County

Cape May County

Cumberland County

Ocean County

New Jersey

Nation

World

War in Iraq

Special Reports

Education

Politics

Weather

Lottery

World News

Archives

OPINION

Press Editorials

Voices of the People

Columns

Commentary

INTERACTIVE

Reader Blogs

Podcasts

Rss

Video

Local Photos

AP Photos

SPORTS

College Football

Baseball

High School

Local

Swimming and Fishing

Golf

POSSIBLE

English NFL

Physio NFL

Physio NBA

Model Cup

BUSINESS

Local

Stock Market

National

Technology

Science & Nature

ENTERTAINMENT

Books & Soundtracks

## Bad ruling on trash

Fix federal law

Published Monday, February 13, 2007

Well, the trash haulers and the railroads have won a round in federal court. That's disappointing — and a problem for Congress to fix.

In a case involving several Hudson County trash-transfer stations along a rail line, U.S. District Court Judge Katharine Hayden ruled last week that the federal government's jurisdiction over railroads and interstate commerce trumps state and local efforts to regulate these facilities. Hayden threw out \$2.5 million in fines that the state Department of Environmental Protection had levied against the facilities.

Both Pleasantville and Mullica Township have sparred with the Southern Railroad Co. of New Jersey, which along with a local trash hauler has operated or planned similar facilities in southern New Jersey.

Trash is trucked into the transfer stations, loaded onto rail cars and shipped out of state. The facilities have generated concerns about rodents, odors and other types of pollution, but operators have argued that such rail facilities are not subject to local regulation.

ADVERTISEMENT

Nevertheless, in November, a Superior Court judge ordered the Pleasantville facility to accept only waste that is in sealed containers and placed directly on a rail car. Last May, U.S. District Court Judge Jerome Simandis issued an injunction prohibiting construction of a rail trash-transfer station in Mullica and indicated that the Pinelands Protection Act would supersede federal railroad law and allow the state to regulate these facilities.

But the ruling in the Hudson County case — "a bad solid-waste decision," a DEP spokesman called it — makes it clear that Congress must act. There are obvious public-health and environmental reasons for strict oversight of any trash facility — particularly any facility in the fragile Pinelands, like the one planned for Mullica, or in the coastal zone, like the one in Pleasantville. To think that these trash facilities can operate outside of state environmental regulations defies common sense. But not, apparently, federal law.

So the law needs to be changed. A year ago, the Senate Transportation Committee approved a resolution urging Congress to address the issue. Last week's federal court ruling, which the state does intend to appeal, makes the matter all the more important.

According to a spokesman, U.S. Sen. Frank Lautenberg, D-N.J., plans to reintroduce legislation that will give states the ability to make sure these trash-transfer stations comply with local regulations. GIVING states this authority would protect the environment — and does not seem to us to be a significant restraint of interstate commerce. The region's representatives in the House, who like to stress their concern about the environment, should join Lautenberg's effort.

Babies were  
born to  
be breastfed.

www.4woman.gov

1-800-944-WOMAN

Or talk to your  
healthcare provider.

